

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NORTH MARSHALL WATER DISTRICT)	
)	
<hr/>)	CASE NO. 95-107
)	
ALLEGED VIOLATION OF KRS 278.160 AND)	
KRS 278.170)	

O R D E R

North Marshall Water District ("North Marshall"), a water district formed pursuant to KRS Chapter 74, owns and operates facilities used for the distribution and furnishing of water to the public for compensation in Marshall County, Kentucky, and is, therefore, a utility subject to Commission jurisdiction. KRS 278.010(3)(d); KRS 278.015.

Roy C. Brien, Gary E. Clark, Dorothy Coffeen, Bennie W. Barnell, and John R. Travis are members of North Marshall's Board of Commissioners.

KRS 278.160 prohibits a utility from charging or collecting from any person a greater or lesser compensation for any service than that prescribed in filed rate schedules. It further prohibits any person from receiving any service from a utility for a compensation greater or less than that prescribed in the utility's filed rate schedules.

A utility may provide free or reduced rate service to its officers, agents or employees. KRS 278.170(2). Such service may

be provided only after notice of the reduced rate is given to the Commission and the Commission agrees. Id.

By letter dated January 9, 1995, the Commission was advised that North Marshall was charging a reduced rate to certain employees. See Exhibit 1. In response to Commission inquiries, North Marshall's General Manager informed the Commission that North Marshall is charging a reduced rate to 15 employees, including the current members of its Board of Commissioners. See Exhibit 2.

Commission records do not indicate that the Commission has agreed to this reduced rate or that North Marshall has submitted this rate to the Commission for review.

Based on its review of Exhibits 1 and 2 and being otherwise sufficiently advised, the Commission finds that a prima facie case exists that North Marshall and the members of its Board of Commissioners have failed to comply with KRS 278.160 and 278.170.

The Commission, on its own motion, HEREBY ORDERS that:

1. North Marshall and the members of its Board of Commissioners shall appear before the Commission on May 9, 1995 at 10:00 a.m., Eastern Daylight Time, in Hearing Room 2 of the Commission's offices at 677 Comanche Trail, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of KRS 278.160 and KRS 278.170, and of showing cause why each should not individually be subject to the penalties prescribed in KRS 278.990(1) for these alleged violations.

2. North Marshall and each member of its Board of Commissioners shall submit to the Commission within 20 days of the

date of this Order a written response to the allegations contained herein.

3. Exhibits 1 and 2 to this Order are made part of the record of this proceeding.

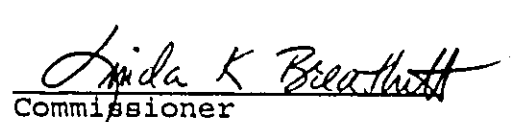
4. Any motion requesting an informal conference with Commission Staff to consider any matter which aids in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 24th day of March, 1995.

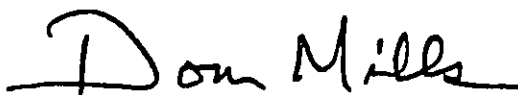
PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

RECEIVED
FEB 08 1995
PSC Consumer Services

February 6, 1995

Bob Johnston, Manager
Consumer Services
Public Service Commission
750 Schenkel Lane
P.O. Box 615
Frankfort KY 40602

Dear Mr. Johnston:

In response to your letter dated February 4, 1995, I believe I can furnish you complete information regarding the inquiry into the North Marshall Water District's policy concerning employee and commissioner water billing.

In January 4, 1973, the Commissioners of the District enacted a policy which reads as follows: "It was agreed that all Commissioners and employees of North Marshall Water District will not pay a minimum water bill, but will pay for all water used after the first 2000 gallons." (Copy of minutes enclosed).

On February 14, 1991, the Commissioners enacted a policy which reads as follows: "Mr. Johnson motioned that all retired personnel and ex-commissioners shall not be charged the minimum rate for water. Motion seconded by Dorothy Coffeen. It was further discussed and agreed that the individual only can receive this benefit not a spouse, child, or relative. Motion carried." (Copy of minutes enclosed).

Upon my returning from the District's rate hearing in Frankfort in May 1994, I copied each of the Commissioners the contents of a packet given to me by Caryn Lee at the hearing. Enclosed were two letters from the PSC, dated July 24, 1987 and December 23, 1992, as well as the PSC order regarding case no. 92-294, all of which concerned the issue of giving free water to district employees and/or commissioners. The copies were distributed on June 16, 1994. No action was taken by the Commissioners. (Copy of materials enclosed).

The current status of these policies have not changed since they were enacted. As of this date, there are fifteen persons not being charged a minimum bill in compliance with this policy. The breakdown is as follows:

current commissioners-	5
former commissioners-	2
current employees-	7
former employees-	1
total-	15 (List enclosed).

The only correspondence I possess are the materials given to me by Ms. Lee, which I have enclosed. At the present time, the minimum charge that is waived for the above persons is \$0.41 on a bimonthly basis. I hope that the information I have provided will be adequate for you to complete the inquiry. If you require any further information, please contact me.

Sincerely,



Amy Jo Harwood
General Manager
North Marshall Water District

enclosures

EXHIBIT 2

(1)

North West - Shell Water East
Frankfort, Ky

1-9-95

Public Service Commission
Frankfort, Ky
Mr. Don Mills
Executive Director
Dear Mr. Mills:

RECEIVED

JAN 17 1995

PUBLIC SERVICE
COMMISSION

In 2-14-91 minutes (copy included) of our Water
Board meeting.

A policy was passed - voted on by all
Commissioners.

"That all retired personnel and ex Commissioners
~~shall~~ shall not be charged the minimum
rate for water."

① I would like to know if this policy is still in
effect. If so - Does our present Commissioners
get this benefit?

② How many retired personnel and
ex-Commissioners still get this minimum
water bill? (The 9.41 monthly minimum).

③ Names of retired personnel and ex-Commissioners
still receiving this benefit.

EXHIBIT 1

Sincerely,

Miss Bessie Elliott

Changing Add. →

3781 U.S. Hy. 68W.

Benton Ky 42025



NORTH MARSHALL WATER DISTRICT

Route 7, Box 184 • Benton, Kentucky 42025 • Telephone (502) 527-3208

General Manager:

Larry C. Brannon

Commissioners:

Roy C. Brien, Chairman
Terry Tucker, Secretary
William C. Johnson, Treasurer

February 14, 1991

Minutes of Commissioners Meeting

Attending:	Commissioners	Roy C. Brien Gary Clark Dorothy L. Coffeen Wm. C. Johnson Bennie W. Darnell	Chairman Secretary Treasurer
	General Manager		Larry C. Brannon
Time:	7:00 PM		
Location:	District Office Board Room		

Meeting called to order by Chairman Brien.

The Commissioners discussed the difference in the total expense recorded in the Vendor Claims Register and Income and Expense reports. Therefore, approval of the claim register was delayed to acquire an explanation of the difference.

Commissioner Johnson made a motion to approve the minutes of the January 10, 1991, meeting. The motion was seconded by Commissioner Clark. Motion carried.

The General Manager requested an updated policy on the benefits to retired personnel and commissioners. After discussing the matter the Board developed the following policy:

Mr. Johnson motioned that all retired personnel and ex-commissioners shall not be charged the minimum rate for water. Motion seconded by Dorothy Coffeen. It was further discussed and agreed that the individual only can receive this benefit not a spouse, child, or relative. Motion carried.

After a lengthy discussion Bill Johnson made motion for North Marshall Water District notify PADD Service Corp. that we are interested in pursuing the transfer of Golden Acres & Gateway Sewer Systems to North Marshall Water District subject to total feasibility exceptable to North Marshall Water. Dorothy Coffeen seconded the motion. Motion carried.

The Public Service Commission has notified North Marshall Water District they are to take over the Hines line on Oakland Methodist Church Road. The General Manager had prepared a petition for the McCracken County Fiscal Court to extend our territory into McCracken County in order to serve three residents that are currently on the Hines line. Commissioner Johnson made motion to approve the petition. Gary Clark seconded the motion. Motion carried.

B.W. Darnell made motion that Gary Clark be named Secretary for North Marshall Water District Board of Commissioners. Terry Tucker's resignation from the Board left a vacancy in the secretarial position. Dorothy Coffeen seconded the motion. Motion carried.

Page 2
Minutes of Commissioner Meeting
February 14, 1991

Wm. C. Johnson resigned his position as Treasurer of the North Marshall Water District Board. He made a motion that Dorothy Coffeen be Treasurer. B.W. Darnell seconded the motion. Motion carried.

The General Manager presented a bill for the Bond renewal from Peel & Holland. Gary Clark made a motion to approve payment of the Bond renewal. B.W. Darnell seconded the motion. Motion carried.

The Board had a lengthy discussion regarding a letter the Board had received from Ms Bessie Elliott requesting Mr. Brannon's resume. The Board said the only public information of the District are the minutes, audit, and rules and regulations. Commissioner Johnson made motion the District does not give out any personell information to anybody unless approved by the Board. Information available to consumers is audit, rules and regulations, and minutes. Gary Clark seconded the motion.

The Board requests Cynthia Robinson compose letter to Ms Elliott for Carter's signature informing her of the Board's decision.

A motion was made by Dorothy Coffeen to pay the Chamber of Commerce dues. Bill Johnson seconded the motion.

Mr. Brannon had bids on the Directors and Officers insurance. CIMA's bid through Reliance Insurance for \$1,000,000 coverage was \$2,453.00 annually. Peel & Holland had a bid for the same coverage for \$1,450.00, \$2,000,000 coverage would be \$2,493.00. Commissioner Darnell made a motion take the lowest premium with same coverage of \$1,000,000 Liability. Gary Clark seconded the motion. Motion carried.

Mr. Brannon had a request for an interim payment to Gregory Piping for work completed on Holleytown Road extension. Three thousand feet of pipe have been installed to date. B.W. Darnell made motion to pay Gregory Piping for work completed to date. Dorothy Coffeen seconded the motion.


Mr. Brannon notified the Board that Republic Savings Bank needs a resolution or something in the minutes stating the changes in the Board of North Marshall Water District for changes in the signatures on the accounts held at at the bank.

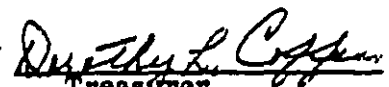
Wherefore, be it resolved the Board of Commissioners, are duly appointed officials by Marshall County Fiscal Court, are hereby authorized to inquire, transfer, or deposit funds into Liquid C/D at Republic Savings Bank, Benton, Kentucky, in the name of North Marshall Water District.

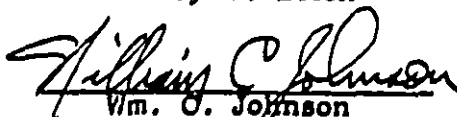
Gary Clark made motion to adjourn meeting. Bill Johnson seconded the motion.

Meeting Adjourned.


Chairman
Roy C. Brien


Secretary
Gary Clark


Treasurer
Dorothy L. Coffeen


Wm. C. Johnson


Bennie W. Darnell

January 4, 1973

NORTH MARSHALL WATER DISTRICT

Minutes of Commissioners Meeting

Meeting called to order by Chairman, E. T. Cross. Carter Brien, Ralph Moore and James Dossett were present.

The commissioners discussed problems A. P. Horrel was having at his Battery factory with pressure in a new line. The District will run a 2 inch PVC line from a 3 inch PVC line to his office building at the district's cost. All other lines are functioning properly and pressure is sufficient. The District will not be responsible for any other adjustments.

The Commissioners approved a plan to furnish water to Brigadoon Subdivision, Freeland Edwards - owner, whereby they use 4 inch PVC pipe on Brigadoon Drive with a loop back to highway 1422 and extending East to a dead end at the end of their property, also a lateral on Heather Drive that would tee into Brigadoon Drive. All Lines will be built according to specifications of the water District and per provisions in contract between the water District and Mr. Freeland Edwards.

Dorothy is directed to type two forms of contracts, one the standard contract most frequently used for subdivisions, the other type shall be similar to contract held between L. O. Gholson and the water District. Motion made by Brien, seconded by Cross - motion passed.

Motion made to send Marvin Prince a check in the amount of \$1,000.00 for expenses incurred in the A. O. Smith suit. All three commissioners were in accord and motion passed.

Commissioners agreed to sell Jerry Moore three meters for his personal use at the boat dock at current prices.

It was agreed that all Commissioners and employees of North Marshall Water District will not pay a minimum water bill, but will pay for all water used after the first 2000 gallons. The district has several people who have been paying a minimum water bill and have never been connected to the water. It was decided that this was unfair since we have a stand-by rate of \$2.50 for people not using the water in the winter. It was agreed by commissioners to change the people involved from the standard minimum bill to the stand-by rate beginning with the February bill.

Meeting adjourned,

Respectfully submitted;

Carter Brien, Secretary

Carter Brien

E. T. Cross, Chairman

E. T. Cross

Ralph Moore
Ralph Moore, Treasurer



NORTH MARSHALL WATER DISTRICT

Route 7, Box 184 • Benton, Kentucky 42025 • Telephone (502) 627-3208

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Larry C. Brannon

Commissioners:

Roy C. Brion, Chairman
Terry Tucker, Secretary
William C. Johnson, Treasurer

February 14, 1991

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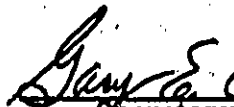
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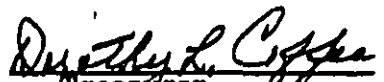
Wherefore, be it resolved the Board of Commissioners, are duly appointed officials by Marshall County Fiscal Court, are hereby authorized to inquire, transfer, or deposit funds into Liquid C/D at Republic Savings Bank, Benton, Kentucky, in the name of North Marshall Water District.


Gary Clark made motion to adjourn meeting. Bill Johnson seconded the motion.


Meeting Adjourned.


Chairman
Roy C. Brien


Secretary
Gary Clark


Treasurer
Dorothy L. Coffeen


Wm. C. Johnson


Bennie W. Darnell



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
210 SCHENCK LANE
POST OFFICE BOX 615
FRANKFORT, KY 40602
(502) 564-1940

RECEIVED

MAR 31 1994

RATES & REVENUE DIV.

July 24, 1987

RECEIVED

JUL 27 1987

RATES AND TARIFFS

Hon. Brent Yontz
114 Mill Street
P.O. Box 195
Greenville, Kentucky 42345

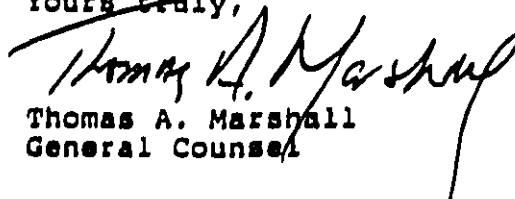
Dear Mr. Yontz:

I have conferred with our Division of Engineering regarding your question as to "approval of new boundaries" for the Muhlenberg County Water District. The Commission's Order entered January 28, 1987, in Case No. 9539, required the merged Muhlenberg County Water District to revise its boundaries in accordance with KRS 74.110. The Order also required Muhlenberg to file the appropriate county court orders with the Commission. Muhlenberg filed the county court orders, which described the new boundaries, and a map, which depicted the new boundaries, with the Commission on May 19, 1987. The Commission's engineering staff has reviewed this material and is of the opinion that no further action in this matter is required at this time by Muhlenberg or the Commission.

As to your request that the Commission approve the offering of free water service to district employees, I must inform you that the Commission will not agree to or approve of such reduced rate service. This position is consistent with a recent refusal to grant a similar request by another water district.

In the opinion of the Commission, employee concession service should not be allowed for public corporations such as water districts and water associations. Such publicly owned utilities have no shareholders to which the foregone revenues can be charged. The Commission will allow such services if the ratepayers are not required to pay for the foregone revenue. This can occur only with investor-owned utilities.

Yours truly,


Thomas A. Marshall
General Counsel

TAM/lb



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-1940

December 23, 1992

Mr. Otis Williams
President
West Laurel Water Association
118 Carter Drive
P. O. Box 726
London, KY 40741

DEC 24 1992

Dear Mr. Williams:

This letter is in reference to the resolution passed by the Board of Directors of West Laurel Water Association of which a copy was sent to the Commission.

The Kentucky revised Statute Chapter 278.160 Utilities to file and display schedule of rates and conditions for service; adherence to schedules, states that each utility shall file with the Commission schedules showing all rates and conditions for service established by it. In other words, before a utility can offer any service free or otherwise, there must be an approved tariff on file with the Commission.

Chapter 278.170 Discrimination as to rates or service; free or reduced service, states that any utility may grant free or reduced rate service to its officers, agents or employees, etc.

I wish to inform you that it has been the policy of this and past Commissions to not approve this type of tariff for water districts and associations insofar that such publicly owned utilities have no shareholders to which the foregone revenues can be charged. The Commission has allowed such services if the ratepayers are not required to pay for the foregone revenue. This can occur only with investor-owned utilities.

Mr. Williams
December 23, 1992
Page 2

If you wish to enforce the contents of your resolution, a tariff must be filed with the Commission seeking approval of its contents. You may file any supporting material along with the tariff and the Commission will review and give their utmost attention to the filing. If you desire further information, please feel free to contact me at (502) 564-3940.

Sincerely,

A handwritten signature in dark ink, appearing to read "Don Mills". The signature is fluid and cursive, with the first name "Don" and last name "Mills" clearly distinguishable.

Don Mills
Executive Director

BS/lad